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Statement of Arguments for Pre-Appeal Brief Request for Review

Claims 22-42 are pending in the application. For purposes of this review, the amendments to the claims in the August 19, 2010 Amendment have been entered as indicated in the September 9, 2010 Advisory Action.

The Claimed Invention

The present invention discloses a dishwasher and a method for operating a dishwasher wherein the storage reservoir for the rinsing water is particularly simple and economical to produce and, in addition, the loss of space in the dishwasher through the storage reservoir is kept very low and/or the rinsing solution can be stored for a particularly long time in the storage reservoir without substantial formation of bacteria.

To accomplish this, the present invention includes a storage reservoir embodied as a film bag which can be matched in size to the volume of the liquid. As a result, any free space in a dishwasher can advantageously be used for storage of rinsing water. The specification notes that this type of flexible film bag is also inexpensive and simple to manufacture, therefore increasing the ease of assembly or manufacture of the dishwasher. The film bag may be formed preferably of an inexpensive plastic or metal material.

Rejections under and §103(a)

Claims 22, 24, 25, 27, 28, 32, 33, 35, 38-40, and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis (U.S. Patent No. 5,617, 885) in view of Tabasso (EP 0 546 348). Claim 23 stands rejected under U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso and further in view of Andreae (DE 19 835 722). Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso, and further in view of Perry's Chemical Engineering Handbook. Claims 29 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso, and further in view of Arreghini et al. (U.S. Patent No. 5,606,878). Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso in view of Arreghini et al. in view of Perry's

Chemical Engineering Handbook, and further in view of Thies (U.S. Patent No. 6,432,216). Claim 34 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso, and further in view of Fumagalli (EP 0 607 628). Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso, in view of Johnston (U.S. Patent No. 4,518,599), and further in view of Nishino et al. (U.S. Patent No. 3,872,013). Claim 41 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso, in view of Arreghini et al., in view of Johnston, and further in view of Nishino et al. Applicants respectfully traverse these rejections.

The present invention recites in independent claim 22 a feature where a “storage reservoir is embodied as a film bag which can be matched in size to the volume of the liquid.” As noted in the description of the present invention, the film bag can be matched in size to the volume of the liquid, freeing space in the dishwasher. The film bag is also inexpensive and simple to manufacture.

Centis is cited in the grounds of rejection as disclosing a dishwasher that carries out a washing program and includes a program controller, a washing container, and a system for circulating the rinsing water. The grounds of rejection and Advisory Action acknowledge that the claimed film bag feature of the present invention is not disclosed in Centis. Rather, the grounds of rejection state that Tobasso teaches a similar dishwasher as in Centis for recovering, storing, and returning rinse water for further use during various phases of a washing process by using a flexible bag as a storage reservoir which results in minimum space usage (citing Figures 1 and 2, the Abstract, and col. 1, lines 47-55; col. 2, lines 29-39; and col. 3, lines 28-31 of Tobasso). Accordingly, the grounds of rejection allege that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the flexible bag reservoir taught by Tobasso as the reservoir of Centis with a reasonable expectation of success because Tobasso allegedly teaches that it is known to use a flexible bag for recovering, storing, and returning rinse water for further use during various phases of a washing process because the flexible bags take up minimum space within the dishwasher.

Applicants respectfully submit that Centis teaches away from the present invention and that one of ordinary skill in the art would have not looked to Tobasso for a flexible reservoir for use in the Centis dishwasher. In response to this argument, the grounds of rejection note that Centis teaches a dishwasher that utilizes a storage reservoir, but it does not teach that the storage reservoir is a flexible bag. The grounds of rejection and Advisory Action state that Tabasso teaches a dishwasher that utilizes a flexible bag as a storage reservoir because using bag-like reservoirs takes up minimum space within the dishwasher. Therefore, the grounds of rejection conclude that because both Centis and Tabasso teach dishwashers that contain a storage reservoir, it would have been obvious to one of ordinary skill in the art to substitute one container for the other to achieve the predictable result of holding liquid.

Applicants respectfully submit the Tobasso bags are for use in a parallel manner and not for use as part of the water supply system. Centis describes a washing machine shown in EPO 0 287 990 and Germany 29 10 140 in which a rinse phase is collected in an appropriate reservoir. The reservoir is connected in parallel with the washing machine for reuse of the water in a pre-wash or main wash phase of a subsequent washing process (see col. 1, lines 10-16). Centis states that one problem with this rinse collection system configured in parallel with the water supply system of the machine is that the rinse and/or wash water stored in the reservoir is at least partially contaminated, i.e., polluted. Centis seeks to solve this problem by having its reservoir 11 as a part of the water supply circuit 8-14 (in which the reservoir 11 is connected in series). In this manner, the reservoir 11 is automatically flushed, and washed, with fresh water from the supply. This enables the water from at least one operational phase of the washing process to be recovered in an effective way, while overcoming the hygienic and reliability problems associated with prior-art solutions (see col. 3, lines 10-19). As such, since the Tobasso bags are for use in a parallel manner and not for use as part of the water supply system, Applicants again respectfully submit that one of ordinary skill in the art would not look at that configuration for incorporation into Centis system. Applicants note that the alleged use in a washing process as further argued in the Advisory Action does not teach use in a water supply. Accordingly, Applicants respectfully submit that the present combination

of references was made using improper hindsight in view of Applicants' own specification.

Additionally, in the Centis system, the reservoir 11 is arranged to act as a volumetric metering reservoir. This volumetric metering teaching would lead one of ordinary skill in the art away from bags of a flexible nature. Indeed, the Centis dishwasher notes that the reservoir 11 is preferably provided with level control means, which may for instance comprise a float 16 adapted to enable the water inlet valve 9 to be opened only when the level of the water in the reservoir 11 is below a predetermined level (see col. 2, lines 20-24). One of ordinary skill in the art would not associate using a flexible bag in conjunction with a float 16 to determine a level of fluid since the bags shape would constantly change. Accordingly, Applicants respectfully submit that independent claim 22 is allowable.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 22-42 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.